

November 20, 2000

BC EST #D500/00

**TO: Robert Glen Kirk operating as North American Magazine Services  
Employees  
Director of Employment Standards (Officer: Allan Carlson)**

**Re: Employment Standards Act - Part 13  
Appeal of a Determination issued by the Director of Employment Standards on  
April 12, 2000  
Robert Glen Kirk operating as North American Magazine Services -and-  
Employees  
Tribunal File No. 2000/709 CDET**

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This letter sets out the Tribunal's decision regarding what wages are owed by Robert Glen Kirk operating as North American Magazine Services ("Kirk") to 16 former employees.

On August 8, 2000, the Tribunal issued Decision BC EST #D256/00 in connection with the above-noted appeal which included the following Order by Adjudicator E. Casey McCabe:

The Determination dated April 12, 2000 as revised May 29, 2000 is confirmed. The Director's delegate has not given a grand total for the revised determination. The matter is remitted back to the delegate to define the individual amounts and the grand total, including interest to date, owed by this employer.

The Tribunal received a submission dated October 6, 2000 from the delegate of the Director of Employment Standards. In her submission, the Director's delegate outlined the amounts owed to each of the 16 former employees, including interest calculated to September 27, 2000. These amounts (exclusive of interest) are identical to the delegate's revised calculations of May 29, 2000. The delegate found that Kirk owed the grand total of \$14,608.08. The delegate further said in her submission that she had been unable to locate Kirk and one of the employees.

In a letter dated October 17, 2000, the Tribunal invited Kirk and the 16 employees to reply to the submission of the Director's delegate by no later than 4:00 p.m. November 7, 2000. Kirk and the employees were also advised that the Tribunal may decide the matter of *quantum* based solely on the written submissions of the parties and that an oral hearing may not necessarily be held and, further, that the Determination would either be confirmed, varied, cancelled or referred back to the Director of Employment Standards.

The Tribunal did not receive any replies from the employees or Kirk. Mail sent to Kirk at two different addresses was returned to the Tribunal. The Tribunal contacted the delegate to determine if she had another address for Kirk. She advised she did not.

This appeal has been decided based on the sole written submission received by the Tribunal.

I have considered the submission made by the Director's delegate. I find no basis to alter her conclusion on *quantum*. Excluding her calculations on interest, the delegate's calculations for wages owed to the 16 employees are the same as the ones she submitted on May 29, 2000. These calculations were considered and accepted by Adjudicator McCabe and I find no basis to disturb his decision. Further, I find no grounds on which to disturb the delegate's calculations regarding interest.

Accordingly, the following Order is made:

**ORDER**

Pursuant to Section 115 of the *Employment Standards Act*, and further to Tribunal Decision BC EST #D256/00, I order that the Determination dated April 12, 2000 as revised May 29, 2000 be varied to show that Kirk owes the following amounts (inclusive of interest to September 27, 2000) to the 16 employees plus, pursuant to Section 88 of the *Act*, any further interest accumulated since September 28, 2000:

Jason Barnett .....	\$1117.30
Rachel Borho .....	\$80.97
Murray Collins .....	\$1357.31
Alan Dykes .....	\$1795.62
Lane Forsyth .....	\$769.66
Rashpal Gill .....	\$493.68
Vincent Hildebrand .....	\$626.21
Stephen Larre .....	\$2640.60
Erin Makzewski .....	\$462.97
Dawn Melin .....	\$119.39
Simon Hopper .....	\$920.76
Betty Morgan .....	\$405.44
Adelon Paren .....	\$340.56
Jennifer Rothwell .....	\$1702.83
Robert Weir .....	\$1405.52
Meon Yestrau .....	\$369.26
<b>GRAND TOTAL .....</b>	<b>\$14,608.08</b>

**Norma Edelman**

Norma Edelman  
Vice-Chair  
Employment Standards Tribunal